UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,692	02/18/2004	Noam Camiel	NOAMC-0001-2004	8952

7590 06/20/2006

NOAM CAMIEL
47 BILU ST.
TEL-AVIV, 64256
ISRAEL

EXAMINER	
RUSSELL, CHRISTINA MARIE	
ART UNIT	**PAPER NUMBER**
2837	

DATE MAILED: 06/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/779,692	CAMIEL, NOAM	
	Examiner	Art Unit	
	Christina Russell	2837	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *18-40* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *18-40* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Specification

The amendments made to the specification have been accepted.

The cancellation of claims 1-17 has been accepted, and the cancellation of claims 10 and 11 overturn the USC 112 rejection.

Claim Rejections - 35 USC § 112

1. Claims 39 and 40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

2. Claims 39 and 40 recite the limitation "said external device". There is insufficient antecedent basis for this limitation in the claim. Both these claims are dependent upon claim 37, but no external device appears in claim 37. If these claims were meant to depend upon claim 38, please amend accordingly.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 18-21, 29, and 32-37 are rejected under 35 U.S.C. 102(b) as being anticipated by the US patent application publication to Williams (US 2002/0091455).

3. In terms of claim 18, Williams teaches a system which segments tracks into parts or separate files according to time (see page 5, paragraph [0066]), comprising also of a track database that houses these separate files or track elements generated by said segmentor (see page 1, paragraphs [0011] and [0012], and page 2, paragraph [0035]), and a mixer to mix these separate files, one track element at a time, into one track (see page 5, paragraph [0062], and page 6, paragraph [0072]).

4. In terms of claim 19, Williams teaches said mixer playing consecutive track elements with no gaps and or overlaps, just from one element to the next (see page 5, paragraph [0063].

5. In terms of claims 20 and 21, Williams teaches the track elements or files in a sequence, and loading said sequence, decided upon by the user, into the mixer (see page 5, paragraph [0061], and page 6, paragraph [0072]).

6. In terms of claim 29, Williams teaches, similar to claim 18, of a method representing a track and it's segments, separate part files, or track elements, in a default or preview order, which provides the building blocks to further create a unified data track (see references from claim 18).

7. As for claims 32 and 33, dependent upon claim 29, Williams teaches of multiple track databases or stored data files, one residing separate from the track and one stored on the same media (see page 1, paragraph [0008], [0011], and [0012]).

8. In terms of claim 34, Williams again teaches of a system with a track database, but with the separate segments or files being a master or primary track and a slave or accompaniment track, mixed separately by the user, before being coupled together to form a single track file (page 1, paragraphs [0011] and [0012], and page 2, paragraphs [0016] and [0035]).

9. As for claims 35 and 36, dependent upon claim 34, Williams teaches the slave and master track segments having different BPM (beats-per-min) rates, along with separate slave tracks, created or mixed by the user, having different BPM rates (see page 6, paragraphs [0073] - [0075]).

10. As for claim 37, dependent upon claim 35, Williams teaches the created slave or accompaniment track playing in accordance to the beat start of the created master or primary track (see page 6, paragraphs [0071], [0076], and the beginning of [0078]).

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

12. Claim 23 is rejected under 35 U.S.C. 102(e) as being anticipated by the US patent application publication to Barry (US 2005/0025320).

13. Barry teaches a method for mixing track segments or parts during the mixing process or play. Barry also teaches the playing and mixing of the segments according to preset instructions or controls, and the ability to modify these instructions and the play order on the time axis of these segments. Barry also teaches the ability to check through visual display the preset instructions for segments further down the time axis of the track (see page 1, paragraphs [0002] and [0003], page 3, paragraphs [0058], [0061] and the end of [0064], page 4, paragraph [0079], page 5, paragraphs [0080] and [0083], and page 6, paragraph [0093]).

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

15. Claims 22, 30, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams in view of the US patent to Laroche (6,316,712).

16. In terms of claim 22, Williams teaches all of the above claimed elements, as stated in claim 18, except for the track files starting and ending on a beat before the next file or segment starts. Laroche teaches this beat application (see column 1, lines 15-17, 46-48, 51-57 and 62-64, and column 2, lines 1-3). It would have been obvious to one of ordinary skill in the art, at the time of the invention, to incorporate the downbeat apparatus and method of Laroche into the mixing apparatus of Williams in order to automatically detect the downbeat of the incoming segment from the database as to make it easier to place that track segment in the appropriate location on the track time axis, therefore making it easier to use the segment building blocks to form a more organized and smoothly transitioned track.

17. In terms of claim 30 and 31, Williams again teaches all of the above claimed elements, as stated in claim 29, except for the track files starting and ending on a beat before the next file or segment starts, and the track comprising a certain tempo, or time signature, denoting the beats the track contains. Laroche teaches these beat and tempo applications (see column 1, lines 15-17, 46-48, 51-57 and 62-64, and column 2, lines 1-3). It would have been obvious to one of ordinary skill in the art, at the time of the invention, to incorporate the tempo and downbeat apparatus and method of Laroche into the mixing apparatus of Williams in order to automatically detect the tempo and downbeat of the incoming segment from the database as to make it easier to place that track segment in the appropriate location on the track time axis, therefore making it

easier to use the segment building blocks to form a more organized and smoothly transitioned track.

18. Claims 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barry in view of Williams.

19. As for claim 24, similar to claim 19 and dependent upon claim 23, Barry teaches all the above claimed elements of claim 23 and Williams again teaches said mixer playing consecutive track elements with no gaps and or overlaps, just from one element to the next (see page 5, paragraph [0063].

20. As for claim 25, dependent upon claim 23, Barry teaches the above claimed elements of claim 23 and Williams teaches an initial play order of track segments or elements taken from a track database. These track segments being either tracks created or mixed by the user and placed in a database to be taken by the mixer and mixed into one track, or preview tracks taken off the database by the user (see page 1, paragraphs [0008] and [0010]-[0012], page 2, paragraph [0035], and page 3, paragraph [0043]).

21. As for claim 26, also dependent upon claim 23, Williams further teaches means for playing track segments at the same BPM (beats-per-min) rate (see page 6, paragraphs [0073] – [0076]).

22. Therefore it would have been obvious to one of ordinary skill in the art, at the time of the invention, to combine these two multi media mixing apparatuses as can be seen from the above rejections, using the prior art both alone and in combination.

23. Claims 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barry in view of the US patent to Laroche.

24. In terms of claims 27 and 28, Barry teaches all of the above claimed elements, as stated in claim 23, except for the track files starting and ending on a beat before the next file or segment starts, and the track comprising a certain tempo, or time signature, denoting the beats the track contains. Laroche teaches these beat and tempo applications (see column 1, lines 15-17, 46-48, 51-57 and 62-64, and column 2, lines 1-3). It would have been obvious to one of ordinary skill in the art, at the time of the invention, to incorporate the tempo and downbeat apparatus and method of Laroche into the multi-media apparatus of Barry in order to automatically detect the tempo and downbeat of the preset track segments, on the already present visual display of Barry, and to further make it easier to place these separate track files in the appropriate location on the track time axis in relation to each other, therefore making it easier to use these building blocks to form a more organized and smoothly transitioned track.

25. Claims 28 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams in view of the US patent to Windle (6,686,970).

26. Williams teaches all of the claimed elements as disclosed above in claims 24 and 35, except for the master or primary track beat information being exported to an external device and that device being a video projection in synch the beat of the music. Windle does however teach this synchronization of beat and video (see column 9, lines 39-62).

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to incorporate the similar techniques of beat synchronization of both Williams and Windle to further add more performance flare to the mixing system of Williams.

27. Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Williams in view of Windle as applied to claim 38 above, and further in view of the US patent to Marx (6,175,632).

28. Together Williams and Windle teach all of the claimed elements as stated above in claims 34, 35 and 18, except for the external device, that receives the beat information, being lighting effects in synchronization with the beat. However, Marx discloses knowledge of an external device, such as light synchronization to the beat of music (see column 1, lines 35-49). It would have been obvious to one of ordinary skill in the art, at the time of the invention, to take a widely known DJ performance trick, as explained by Marx, and attach that aspect to the mixing and editing device of Williams which already synchronizes the separate track files to each other in accordance to beat.

Conclusion

29. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christina Russell whose telephone number is 571-272-4350. The examiner can normally be reached on Mon-Fri, 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lincoln Donovan can be reached on 571-272-1988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CR
6/9/2006

LINCOLN DONOVAN
SUPERVISORY PATENT EXAMINER